IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 701 OF 2005

IN

SECOND APPEAL NO. 408 OF 2005

The Thane Janata Sahakari Bank ..Appellants

versus

Smt. Shailaja V. Bedekar ..Respondent

Mr. Umesh Deshpande for the Appellants.

Mr. K. K. Malpathak for the Respondent.

CORAM : D. G. DESHPANDE,J.

DATE : 6TH MAY, 2005

P.C. :

1. This appeal was dismissed by me earlier on 2.5.2005. But immediately thereafter counsel for the appellants bank applied for restoration of the same and he also made prayer that bank is ready to vacate the suit premises and that he will be submitting undertaking in that regard.

2. Today, counsel for the appellants prays that the the order dated 2.5.2005 dismissing the second appeal be set aside and appeal be restored to file. He further stated, upon instructions, that second

appeal be allowed to be withdrawn on appellants giving an undertaking to the court duly notarised and supported by Resolution of the Board of Directors of the said bank - appellants regarding vacating the premises. On this prayer being made, the order of dismissal of the Appeal, is set aside. Appeal is restored to file.

3. The undertaking given by the Appellants is taken on record, copy is given to the Advocate for the Respondent.

4. Advocate for the Respondent state that he was agreeable to grant three months extension for vacating the premises but since bank has asked for six months time, they should be made to pay compensation for use and occupation of the premises.

5. In the circumstances and looking to the nature of the use of the property, undertakings are accepted subject to appellants paying Rs.2,500/- per month for six months period, to the respondents without fail, by demand draft. They will also deposit all the arrears of rent till today within one month from today.

6. In view of this, the second appeal is disposed of as withdrawn. Undertakings given by the

Board of Directors for themselves and for the bank is accepted. Compensation of Rs.2,500/- is fixed without prejudice to the rights of the respondents - plaintiff to claim mesne profits.

6.05.2005 (D.G. DESHPANDE, J.)